

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 25, 2005

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO EXPAND ITS SERVICE
AREA TO INCLUDE A PORTION OF SEVIER
COUNTY, TENNESSEE, KNOWN AS TENNESSEE
STATE BANK - WEARS VALLEY BRANCH**

)
)
)
)
)
)
)

**DOCKET NO.
05-00042**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 13, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Sevier County, Tennessee known as Tennessee State Bank-Wears Valley Branch.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a Certificate of Public Convenience and Necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service

therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“TWS” or “Company”) received a CCN in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee.

TWS filed the *Petition* in this matter on January 25, 2005. The Authority issued Data Requests on March 22 and April 29, 2005. TWS provided responses to the Data Requests in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

The *Petition*

On January 25, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Sevier County, Tennessee known as the Tennessee State Bank-Wears Valley Branch. TWS attached several letters to its *Petition* in support of its request to expand its service area. First, TWS attached a letter from Tennessee State Bank expressing its desire that TWS provide service to the property. Second, TWS attached letters from each of the two other

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518

potential wastewater service providers stating that neither presently provides service to the area, nor do they intend to provide service to the area within the next twelve (12) months.²

Rate Schedules

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a listing of the Company's sewer systems with commercial customers and a service area map showing the proposed location of the Tennessee State Bank-Wears Valley Branch.³

The monthly commercial rate, without food service, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁴ will have a seventy-three dollar (\$73.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass- Through Costs+ \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges

² See *Petition* (unnumbered attachments) (January 25, 2005) Letter from Todd Proffit, President and CEO, Tennessee State Bank (January 24, 2005), Letter from Ken L. Maples, Assistant County Mayor for Sevier County, Tennessee to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (November 22, 2004), Letter from Earlene M. Teaster, City Manager, City of Pigeon Forge to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc. (December 16, 2004)

³ *Petition*, (unnumbered attachments) (January 25, 2005)

⁴ Off site means the treatment and disposal is performed by another entity

will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, with food service, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site will have a ninety-four dollar (\$94.00) minimum plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

Excess water usage

Surcharge

1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1,000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00) and a returned check fee of twenty dollars (\$20.00).

The June 13, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a) public notice of the Hearing in this matter was issued by the Hearing Officer on May 10, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on June 13, 2005, Ms. Brandy Pruitt, Office Administrator for TWS, participated, presented testimony and was subject to examination by the Panel. Ms. Pruitt testified that the requested utility service is in the public interest.⁵ Additionally, the Panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation for the system.⁶

Upon the presentation of the Company's proof, the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Chairman Pat Miller, Director Sara Kyle and Director Ron Jones voted unanimously to grant provisional approval of the *Petition* subject to receipt of a final approved permit from the Tennessee Department of

⁵ Transcript of Authority Conference, p. 24 (June 13, 2005)

⁶ *Id*

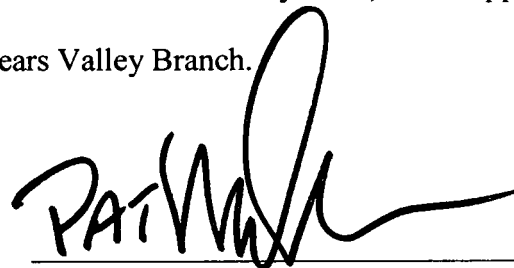
Environment and Conservation evidencing its approval of the Company's application to provide service to the Tennessee State Bank-Wears Valley Branch.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include the Tennessee State Bank-Wears Valley Branch in Sevier County, Tennessee, as shown in the map attached to the *Petition* is provisionally approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.

2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.

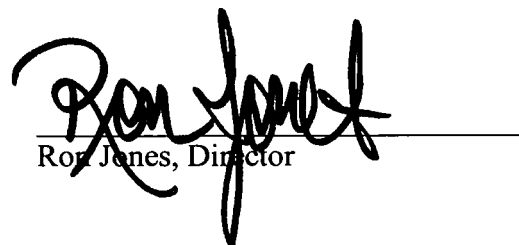
3. The provisional approvals granted herein shall become final upon the filing in this Docket, a copy of the final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to the Tennessee State Bank-Wears Valley Branch.



Pat Miller, Chairman



Sara Kyle, Director



Ron Jones, Director